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such a work as Abbott's *Forms*, but this volume has the great advantage of taking the practitioner step by step from the beginning to the end of the action, and of being, therefore, more likely to prevent a mistake from being made through oversight, or from misinterpretation of some of the numerous, but related, statutory provisions.

AMERICAN CONSULAR JURISDICTION IN THE ORIENT. By FRANK E. HINCKLEY. Washington: W. H. Lowdermilk & Co. 1906. pp. xx, 283.

The author of this book pursued his research work with a care and thoroughness to which the work itself amply bears witness, while a student in the Political Science School of Columbia University. The work covers a field which has never been specially treated by any English or American author heretofore and only partly by one or two Continental writers, and if for no other reason is therefore of considerable worth. The expansion of our commerce and the growth of our National interests in the Orient renders such a treatise especially valuable at the present time.

The work is properly divided into seven chapters. The first describes the history and development of the theory of extraterritoriality. In the second the various treaties of the United States involving this principle are enumerated and commented upon. The third deals with the Congressional acts establishing our various Consular courts. The fourth enumerates and describes the numerous rights arising out of the theory of extraterritoriality. The fifth describes the special tribunals of Egypt and China, the sixth, the foreign settlement of Shanghai, and the seventh, the grounds for the relinquishment of this extraordinary jurisdiction.

In the first chapter the author interestingly describes the causes for the existence of this extraterritorial jurisdiction. The desire of the traders of the Italian cities of the Middle Ages to protect their commerce in the Levant is properly given as the main reason for the establishment of this practice. For this purpose they secured charters or capitulations, a name by which the treaties with Turkey were called even down through the 19th century. In 1199 the Greek Emperor Alexius III issued the first capitulation which described in detail the rights and privileges of extraterritoriality granted to the Venetians. The system expanded during the various Crusades owing to the numerous Christians visiting the near East and the increased trade and commercial activities which naturally followed them. After the fall of Constantinople, we find Francis I of France establishing the right of Frenchmen, who were then the leading traders in the Mediterranean, to be governed by the laws of France while residing in Turkey. In 1533, England, and later Holland, Austria and Russia, followed respectively in securing similar privileges for their subjects in the Sultan's domain.

The principle was not applied to China until 1842. The author in this chapter fails to describe the establishment of this principle in Japan, which might very properly have been here done. The underlying difference between the treaties of the near East and the Far East lies in the fact that the treaties of the Levant recognized the previous existence of custom, or what might be termed an unwritten or common law on the subject, while in the Oriental treaties the right is first recognized in the treaties themselves.

The second chapter is devoted to enumerating, describing and giving a

brief history of our own treaties of exemption from native jurisdiction. The history of the celebrated Turkish treaty with the disputed interpretation of the fourth article which was not finally settled until years after its execution is given in detail. The author calls attention to certain correspondence of two early American Consuls in Turkey, Francis Dainese and John P. Brown, which seemingly had been entirely overlooked during this entire controversy, and which no doubt if known at the time would have probably been of considerable aid in bringing about on the part of our officials a clearer understanding of the early practice in Turkey, both of our own and other governments. The various Chinese and Japanese treaties and the great work of Caleb Cushing and Townsend Harris, Western pioneers in the Far East, are of course described, and proper importance given to their great work. The author, however, fails to mention or to throw any light upon the civil side of the law of extraterritoriality in this chapter, but confines his pen to its history and its development in matters of criminal nature. In the following chapter, however, in dealing with the acts of Congress establishing consular courts, he describes adequately both the criminal and the civil jurisdiction of our consular courts, and the recently established United States Court in China. This chapter should be of considerable interest, not alone to the practicing attorney in these parts, but to students of political science, the general reader and the merchant. This jurisprudence and practice is of growing importance, especially in China, so much so that our Government only in 1906 established a special United States Court in China and reorganized our practice in that empire. The various questions of practice, process, pleading, constitution of the Court, execution of judgment and appeals are dealt with, and citations (which are of course at present few) upon the points are given. A short account of the British and French legislation on the subject is then set forth from which it is evident that these countries have given the various questions arising out of the existence of Western activities in the heart of the Orient, much more thought than we have heretofore given them.

In the following chapter the various legal rights existing under this jurisdiction are described with the authorities bearing upon them. These are the result only of the most careful and painstaking research. The questions of nationality, marriage, divorce, domicile, inheritance, crimes, real property, taxation and commercial privileges are discussed. The different degree to which extraterritorial jurisdiction has been extended is demonstrated in the cases of China and Turkey in the matters of real estate. In the former the *lex loci* is applied and is administered by the respective National Consuls, while in the latter country all matters pertaining to real estate are solely within the Province of the Turkish Courts.

In the chapter on the International Tribunals of Egypt the history of the establishment of these tribunals is given. They are composed of native judges and judges from several European countries and the United States. The nature and extent of their jurisdiction and the Egyptian Code based as it is upon the French Code, which is the law administered by these tribunals, are described by the author. The necessity of such Court is proved by the fact that over 47,000 cases have been argued before them. The final chapter is devoted to the grounds of relinquishing jurisdiction. Here the

very interesting questions arising from the establishment of a Protectorate over a country in which this jurisdiction has been in force, the advancement of a State in civilization, military occupation, the acknowledgment of independence of a portion of an heretofore oriental State, are thoroughly discussed and numerous historical instances set forth.

A valuable and thorough appendix containing important decisions, acts of Congress, treaties and reports and a carefully arranged index, is added to the work. The author has displayed the greatest care in the collection of his foot notes, and his marginal phrases are of considerable aid to the reader.

The work has filled a long felt want in the field of Consular jurisdiction, and will no doubt be of constant help to our officials in those countries where the theory of extraterritoriality still remains in operation.

The author has been deservedly rewarded for his efforts by being appointed the clerk of the United States Court in China.

ACT OF STATE IN ENGLISH LAW. By W. HARRISON MOORE. New York: E. P. Dutton & Co. 1906. pp. xi, 178.

This short but comprehensive work is composed of seventeen chapters treating by the case-study method the most important phases of public law from the standpoint of the sovereign power. The earlier portion deals with the status of Acts of State under the absolute monarchy; the greater part treats of the same problem under the constitutional monarchy and the republic. So far have the theories changed that the former part has chiefly a historic value; the latter is of course of more immediate interest.

Of particular interest in the seventeenth century discussion is that portion bearing upon the spheres of power as to-day recognized, the legislative, executive and judicial. It was laid down in *Darnel's Case*, 3 State Trials 36-37, that the King's acts, writs, commissions, etc., were not exempt from examination by the courts; and the executive was not to interfere with the prerogative of the courts. The King's absolute power was long held to be above the common law and constituted the *lex terrae*. "Matter of State" was early defined by Bacon as "whatsoever concerneth any great portion of the people"; what the King and council deemed *pro saluti populi*. James I held that the Matter of State as it concerned the mystery of absolute power could not be examined into; this belongs "to them that sit in the throne of God" (p. 18). The case of *Godden v. Haler* (1686) Shower 475, holds that in respect of the laws of government if not of property the King is absolute, and part of the constitution is above the power of Parliament. Of course in the Revolution of 1689 Parliament became supreme. If the absolute prerogative is considered as a part of the "law of the land," then certainly it cannot be said to be above this law. What modification the "necessities of war" made in the situation is discussed.

Under the caption "Facts of State" the author has interesting things to say on the status of ceded territory, the power of the King in relation to the national domain, and kindred topics. In England the Crown can annex and cede territory by proclamation and with no limitations by any department, and by implication bind the courts by any situation it may thus, by an Act of State, create. The Court, on the other hand, legally established in